

## COMPARISON

ISSUES	SECTION 504	INDIVIDUALS WITH DISABILITIES EDUCATION ACT— 2004	AMERICANS WITH DISABILITIES ACT
<b>Type</b>	A Civil Rights Law	An Education Act	A Civil Rights Law
<b>Title</b>	The Rehabilitation Act of 1973	The Individuals With Disabilities Education Improvement Act (IDEA)	Americans With Disabilities Act of 1990 (ADA)
<b>Purpose</b>	Is a civil rights law that protects the rights of individuals with disabilities in programs and activities that receive federal financial assistance from the U.S. Department of Education.	Is a federal funding statute whose purpose is to provide financial aid to States in their efforts to ensure a free appropriate public education for students with disabilities.	Provides a clear and comprehensive national mandate for the elimination of discrimination against individuals with disabilities.
<b>Responsibility</b>	General education, but shared with special education	Special education, but shared with general education	Public and private schools, business establishments, and public buildings (services)
<b>Funding</b>	State and local responsibility (no federal funding)	State, local, and federal IDEA funds. IDEA funds cannot be used to serve students eligible only under Section 504.	Public and private responsibility (no federal funding)
<b>Administrator</b>	Section 504 coordinator (Systems with 15 plus employees) to coordinate efforts to comply with this law	Special education director or designee	ADA coordinator is required to coordinate efforts to comply with this law.
<b>Service Tool</b>	Accommodations and/or services	Individualized Education Program (IEP). Some IEPs will include Section 504 accommodations necessary for success in the general classroom.	Reasonable accommodations and legal employment practices

ISSUES	SECTION 504	INDIVIDUALS WITH DISABILITIES EDUCATION ACT—2004	AMERICANS WITH DISABILITIES ACT
<b>Population</b>	Identifies person as disabled so long as she/he meets the definition of qualified persons with disabilities, i.e., has or has had a physical or mental impairment that substantially limits a major life activity or is regarded as disabled by others.	Identifies 13 qualifying conditions: autism, deafness, deaf-blindness, hearing impairment, mental retardation, multiple disabilities, orthopedic impairment, other health impairment, emotional disturbance, specific learning disability, speech or language impairment, traumatic brain injury, and visual impairment.	Identifies person as disabled so long as she/he meets the definition of a qualified person with disabilities; i.e., has a physical or mental impairment that substantially limits one or more major life activities, has a record of such an impairment, or is regarded as disabled by others.
<b>Eligibility</b>	A student is eligible so long as she/he meets the definition of a qualified person with disabilities, i.e., currently has or has had a physical or mental impairment that substantially limits a major life activity or is regarded as disabled by others. The student is not required to need special education services to be protected.	A student is only eligible to receive special education and related services if the multidisciplinary team determines that the student has a disability under one of the 13 qualifying conditions and requires special education services.	A person is eligible so long as she/he meets the definition of a qualified person with disabilities, i.e., currently has or has had a physical or mental impairment that substantially limits a major life activity or is regarded by others as having a disability. The student is not required to need special education services in order to be protected.
<b>Free Appropriate Public Education</b>	A student could receive special education services and/or related services and/or accommodations.	A student must first be eligible and need special education before they are entitled to a related service.	Addresses education in terms of accessibility requirements. Requires private and public entities not to use employment practices that discriminate on the basis of a disability.

ISSUES	SECTION 504	INDIVIDUALS WITH DISABILITIES EDUCATION ACT—2004	AMERICANS WITH DISABILITIES ACT
<b>Accessibility</b>	Federal regulations regarding building and program accessibility require that reasonable accommodations be made.	Requires that modifications must be made if necessary to provide access to a free appropriate public education.	Requires that public programs be accessible to individuals with disabilities.
<b>Undue Hardship</b>	Consideration is given for the size of the program, extent of accommodation, and cost relative to the total school budget.	Budget and administrative convenience is never an excuse.	Consideration is given to the size of the business and its budget, type of operation, and nature and cost of accommodation.
<b>Drug and Alcohol Use</b>	Current drug use is not considered a disability. An individual who has stopped using drugs and/or alcohol and is undergoing rehabilitation could be eligible for accommodations.	Drug and alcohol use is not covered under special education.	Current drug use is not considered a disability. Current alcohol abuse that prevents individuals from performing duties of the job or that constitutes a direct threat to property or safety of others is not considered a disability.
<b>Contagious Diseases</b>	Individual with disabilities excludes any individual with a contagious disease that renders the individual unable to perform the job.	Could be eligible under the category of “other health impaired.”	Permits qualification standard requiring that an individual with a currently contagious disease or infection not pose a direct threat to the health or safety of others.
<b>Procedural Safeguards</b>	Both require notice to the parent or guardian with respect to identification, evaluation, and placement.		Makes provisions for public notice, hearings, and awarding attorney fees.

ISSUES	SECTION 504	INDIVIDUALS WITH DISABILITIES EDUCATION ACT—2004	AMERICANS WITH DISABILITIES ACT
<b>Procedural Safeguards Cont.</b>		Notice provisions are much more comprehensive. Minimum requirements of the notice are specified.	Self-evaluations and transition plans are required and updated annually.
<b>Notice and Consent</b>	Notice is required before a “significant change in placement.” Written consent would be considered a best practice.	Written notice is required prior to any change in placement. Consent is required before the initial placement and reevaluation.	
<b>Evaluations</b>	Evaluation draws on information from a variety of sources in the area of concern. Decisions are made by a group knowledgeable about the student, evaluation data, and placement options. Requires written parental notice. Written parental consent is considered a best practice. Requires periodic reevaluations. Reevaluation is required before a significant change in placement. No provision is made for independent evaluations at district expense. The school district should consider other evaluations and information regarding the student.	A full comprehensive evaluation is required assessing all areas related to the suspected disability. The student is evaluated by a multidisciplinary team. Consent is required before the initial evaluation is conducted. Requires reevaluations to be conducted at least every three years if determined appropriate by the team. A reevaluation is not required before a significant change in placement. However, most students covered by IDEA are also eligible under Section 504. Provides for independent educational evaluation. A due process hearing is available if the school and parent disagree on the need for an independent evaluation.	All schools should conduct or update their Section 504 evaluation regarding services, accessibility, practices, and policies to assure discrimination is not occurring with any individual with disabilities.

ISSUES	SECTION 504	INDIVIDUALS WITH DISABILITIES EDUCATION ACT—2004	AMERICANS WITH DISABILITIES ACT
<b>Services</b>	<p>When interpreting evaluation data and making service decisions, both laws require districts to do the following:</p> <ul style="list-style-type: none"> <li>• Draw upon information from a variety of sources.</li> <li>• Ensure that all information is documented and considered.</li> <li>• Ensure that the service decision is made by a group of persons including those who are knowledgeable about the student, disability, the meaning of the evaluation data, and placement options.</li> <li>• Ensure that the student is educated with his/her nondisabled peers to the maximum extent appropriate (Least Restrictive Environment—LRE).</li> <li>• Provide notice and evaluation before any change of services.</li> </ul>		
<b>Review of Program</b>	Accommodations should be reviewed periodically.	An IEP review meeting is required at least annually or before any significant change.	
<b>Grievance Procedures</b>	Requires districts to provide a grievance procedure for parents, students, and employees.	Does not require a grievance procedure. Complaint Procedures (SEA)	Any school district shall adopt and publish grievance procedures for resolution of ADA complaints.
<b>Complaint Procedures</b>	An individual or organization may file a complaint with the Office for Civil Rights. An OCR complaint must be filed, in writing, within 180 days after the violation has occurred. In certain cases, OCR will consider complaints where more than 180 days have elapsed.	A formal complaint process is required. Parents can file a complaint with the State. A decision must be provided within 60 days.	An individual or organization may file a complaint with the Office of Civil Rights. An OCR complaint must be filed, in writing, within 180 days after the violation has occurred. In certain cases, OCR will consider complaints where more than 180 days have elapsed.

ISSUES	SECTION 504	INDIVIDUALS WITH DISABILITIES EDUCATION ACT—2004	AMERICANS WITH DISABILITIES ACT
<b>Due Process</b>	Both statutes require districts to provide impartial hearings for parents or guardians who disagree with the identification, evaluation, or placement of student with disabilities. School districts or parents can initiate due process hearings.  Requires that the parent have an opportunity to participate and be represented by counsel. Other details are left to the discretion of the local school district. Policy statements should clarify specific details.  Delineates specific requirements.		Due process hearings can be initiated by either party. The court may allow a reasonable attorney's fee for the prevailing party.
<b>Mediation</b>	Not required. However, mediation should always be suggested.	Mediation is optional for the parents and should always be suggested.	Not required. However, mediation should always be suggested.
<b>Exhaustion</b>	Administrative hearing is not required prior to OCR involvement or court action.	The parent or guardian should exhaust all administrative hearings before seeking court action.	An administrative hearing is not required prior to OCR involvement or court action.
<b>Enforcement</b>	Enforced by the U.S. Office of Civil Rights. Regional offices are located throughout the United States. The office is part of the U.S. Department of Education.	Enforced by the U.S. Office of Special Education Programs. Compliance is monitored by the State Board of Education and the Office of Special Education Programs.	Enforced by the U.S. Office for Civil Rights under an agreement with EEOC.

ISSUES	SECTION 504	INDIVIDUALS WITH DISABILITIES EDUCATION ACT—2004	AMERICANS WITH DISABILITIES ACT
<b>Discipline of Students With Disabilities</b>	<p>Requires that a school district evaluate all students with disabilities before making an initial placement or any subsequent, significant change in his or her placement. The proposed exclusion of a student with disabilities that is permanent (expulsion), for an indefinite period, or for more than 10 consecutive school days, constitutes a “significant change in placement.”</p> <p>Before implementing a suspension or expulsion that constitutes a significant change in the student’s placement, the school must conduct a reevaluation to determine if the behavior was caused by the disability.</p> <p>If there is no relationship between the disability and the behavior, the school can expel the student. The school is not required to provide services and/or accommodations during the expulsion period.</p>	<p>Requires that a school district evaluate all students with disabilities before making an initial placement or any subsequent, significant change in his or her placement. The proposed exclusion of a student with disabilities that is permanent (expulsion), for an indefinite period, or for more than 10 consecutive school days, constitutes a “significant change in placement.”</p> <p>Before implementing a suspension or expulsion that constitutes a significant change in the student’s placement, the school must conduct a reevaluation to determine if the behavior was caused by the disability.</p> <p>If there is no relationship between the disability and the behavior, the school can expel the student but still needs to provide a free appropriate public education. This means special education services outlined in the IEP.</p>	